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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,967	01/15/2004	Angela M. Thomas	1862077	3777
22824	7590	05/27/2004		
DONALD R. SCHOONOVER 4211 ROLLING HILLS DRIVE NIXA, MO 65714-8771				
			EXAMINER WALCZAK, DAVID J	
			ART UNIT 3751	PAPER NUMBER

DATE MAILED: 05/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/756,967

Applicant(s)

THOMAS ET AL.

Examiner

David J. Walczak

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3 is/are rejected.
- 7) ☒ Claim(s) 1 and 2 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/15/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to because reference character 86 (page 10, line 13) is not shown therein. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. Further, in Figure 2, it appears that reference character 32 (the first rim) should be directed to the upper edge of shoulder 30. Currently character 32 is directed to the lower edge of shoulder 30 wherein reference character 36 (the second rim) is also directed (see page 8, lines 1-12).

Specification

The disclosure is objected to because of the following informalities: On page 8, line 15, the specification indicates that the foil is mounted on the second rim 36. However, viewing Figure 2, it appears that the foil is mounted on the first rim 32 (it appears that on page 8, line 15 and page 11, line 1, "second rim 36" should be --first rim 32--). Appropriate correction is required.

Claim Objections

Claim 1 is objected to because of the following informalities: As discussed supra, on lines 29 and 98 of claim 1, it appears that "second rim" should be --first rim--. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wirt in view of Cantone. Wirt discloses an applicator comprised of a liquid container unit 1, a puncturable foil 2 (column 4, line 16), an applicator unit that includes an applicator element 8, a fluid conduit 3 which has a pointed end 19 located adjacent the foil and a dispensing end in fluid communication with the applicator element and a threaded connection between the container unit and the applicator unit (column 4, lines 45-51) wherein the applicator operates as claimed. Although the Wirt reference does not disclose that the device is used for applying nail polish remover, the reference does disclose that the device can be used to apply a wide variety of materials (column 2, lines 54-59). Attention is directed to the Cantone reference which discloses another applicator wherein nail polish remover is applied via a sponge applicator 44 (similar to the sponge applicator 8 disclosed in Wirt) in order to enable a user to conveniently apply remover. Accordingly, as the Wirt reference discloses that a wide variety of materials can be used therein, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the Wirt device can be used to apply remover in order to enable a user to conveniently apply remover to the fingernail.

Allowable Subject Matter

Claims 1 and 2 will be allowed upon the correction of the formality discussed supra.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Hidle et al., Timms et al. and Truhan references are cited for disclosing other applicators.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Walczak whose telephone number is 703-308-0608. The examiner can normally be reached on Mon-Thurs, 6:30- 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg L. Huson can be reached on 703-308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read 'David J. Walczak', with a stylized, flowing script.

David J. Walczak
Primary Examiner
Art Unit 3751

DJW
5/23/04